

an assisted project, including any permanent move from the real property that is made:

(i) After notice by the owner to move permanently from the property, if the move occurs on or after the date of the submission of the application to HUD;

(ii) Before submission of the application to HUD, if HUD determines that the displacement resulted directly from acquisition, rehabilitation, or demolition for the assisted project; or

(iii) By a tenant-occupant of a dwelling unit, if any one of the following three situations occurs;

(A) The tenant moves after execution of the Housing Assistance Payments Contract, and the move occurs before the tenant is provided written notice offering him or her the opportunity to lease and occupy a suitable, decent, safe, and sanitary dwelling in the same building/complex, under reasonable terms and conditions, upon completion of the project. Such reasonable terms and conditions include a monthly rent and estimated average monthly utility costs that do not exceed the greater of:

(1) The tenant's monthly rent before execution of the Housing Assistance Payments Contract and estimated average monthly utility costs; or

(2) The total tenant payment, as determined under 24 CFR 813.107, if the tenant is low-income, or 30 percent of gross household income, if the tenant is not low-income;

(B) The tenant is required to relocate temporarily, does not return to the building/complex, and either:

(1) The tenant is not offered payment for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, or

(2) Other conditions of the temporary relocation are not reasonable; or

(C) The tenant is required to move to another dwelling unit in the same building/complex but is not offered reimbursement for all reasonable out-of-pocket expenses incurred in connection with the move, or other conditions of the move are not reasonable.

(2) Notwithstanding the provisions of paragraph (g)(1) of this section, a person does not qualify as a "displaced person" (and is not eligible for relocation assistance under the URA or this section), if:

(i) The person has been evicted for serious or repeated violation of the terms and conditions of the lease or occupancy agreement, violation of applicable Federal, State or local law, or other good cause, and HUD determines that the eviction was not undertaken for the purpose of evading the obligation to provide relocation assistance;

(ii) The person moved into the property after the submission of the application and, before signing a lease and commencing occupancy, received written notice of the project, its possible impact on the person (e.g., the person may be displaced, temporarily relocated, or suffer a rent increase) and the fact that he or she would not qualify as a "displaced person" (or for assistance under this section) as a result of the project;

(iii) The person is ineligible under 49 CFR 24.2(g)(2); or

(iv) HUD determines that the person was not displaced as a direct result of acquisition, rehabilitation, or demolition for the project.

(3) The owner may ask HUD, at any time, to determine whether a displacement is or would be covered by this section.

(h) *Definition of initiation of negotiations.* For purposes of determining the formula for computing the replacement housing assistance to be provided to a residential tenant displaced as a direct result of private-owner rehabilitation, demolition or acquisition of the real property, the term "initiation of negotiations" means the owner's execution of the Housing Assistance Payments Contract.

(Approved by Office of Management and Budget under OMB Control Number 2506-0121)

[58 FR 43721, Aug. 17, 1993. Redesignated at 59 FR 36643, July 18, 1994]

## Subpart B—[Reserved]

## Subpart C—Section 8 Housing Assistance Program for the Disposition of HUD-Owned Projects

SOURCE: 44 FR 70365, Dec. 6, 1979, unless otherwise noted.

**§ 886.301 Purpose.**

The purpose of this subpart is to provide for the use of Section 8 housing assistance in connection with the sale of HUD-owned multifamily rental housing projects and the foreclosure of HUD-held mortgages on rental housing projects (as defined in 24 CFR 290.5).

[58 FR 43722, Aug. 17, 1993]

**§ 886.302 Definitions.**

The terms *Fair Market Rent (FMR)*, *HUD*, and *Public Housing Agency (PHA)* are defined in 24 CFR part 5.

*Act.* The United States Housing Act of 1937.

*Agreement.* An Agreement to Enter into a Housing Assistance Payments Contract. See § 886.332.

*Annual Income.* As defined in part 813 of this chapter.

*Contract.* (See Section 8 contract.)

*Contract rent.* The rent payable to the owner under the contract, including the portion of the rent payable by the family. In the case of a cooperative, the term “contract rent” means charges under the occupancy agreements between the members and the cooperative.

*Decent, safe, and sanitary.* Housing is decent, safe, and sanitary if it meets the physical condition requirements in 24 CFR part 5, subpart G.

*Eligible project or project.* A multifamily housing project (see 24 CFR part 290):

(1) For which the disposition in accordance with the provisions of 24 CFR part 290 involves sale with Section 8 housing assistance to enable the project to be used, in whole or in part, to provide housing for lower income families; and

(2) The units of which are decent, safe, and sanitary.

*Family (eligible family).* As defined in part 812 of this chapter.

*Gross Rent.* As defined in part 813 of this chapter.

*HCD Act.* The Housing and Community Development Act of 1974.

*Housing Assistance Payment.* The payment made by the contract administrator to the Owner of an assisted unit as provided in the Contract. Where the unit is leased to an eligible Family, the payment is the difference between the

Contract Rent and the Tenant Rent. A Housing Assistance Payment may be made to the Owner when a unit is vacant, in accordance with the terms of the Contract. An additional Housing Assistance Payment is made when the Utility Allowance is greater than the Total Tenant Payment.

*Lease.* A written agreement between the owner and a family for leasing of decent, safe and sanitary dwelling unit to the family.

*Low-Income Family.* As defined in part 813 of this chapter.

*Owner.* The purchaser, including a cooperative entity or an agency of the Federal Government, under this subpart, of a HUD-owned project; or the purchaser, including a cooperative entity or an agency of the Federal Government, through a foreclosure sale of a project that was subject to a HUD-held mortgage.

*Project account.* The account established and maintained in accordance with § 886.308.

*Rehabilitation.* The rehabilitation of an eligible project to upgrade the property to decent, safe, and sanitary condition to comply with the Housing Quality Standards described in § 886.307 of this part, or other standards approved by HUD, from a condition below those standards and requiring repairs that may vary in degree from gutting and extensive reconstruction to the cure of deferred maintenance. Rehabilitation may exceed the requirements of § 886.307 of this part.

*Section 8 contract (“Contract”).* A written contract between the owner of an eligible project and HUD providing housing assistance payments to the owner on behalf of eligible families pursuant to this subpart.

*Tenant Rent.* The monthly amount defined in, and determined in accordance with part 813 of this chapter.

*Total Tenant Payment.* The monthly amount defined in, and determined in accordance with part 813 of this chapter.

*Utility Allowance.* As defined in part 813 of this chapter, made or approved by HUD.

*Utility reimbursement.* As defined in part 813 of this chapter.